

THE HONORABLE RICARDO S. MARTINEZ

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

MSC VENTURE CORP. SDN BHD and
MSC VENTURE ONE SDN BHD,

Plaintiffs,

v.

ESMOND GOEI and EVELYN GOEI,

Defendants.

Case No. 06-CV-01731 RSM

FIRST AMENDED COMPLAINT

ESMOND GOEI,

Third-Party Plaintiff,

CYPHERMETRIX, INC., a Delaware
Corporation; CYPHEREDGE
TECHNOLOGIES INC., a Delaware
Corporation; and JAMES B. LINKOUS,

Third-Party Defendants.

With written consent and stipulation of Defendant and Third-Party Plaintiff Esmond Goei, Third-Party Defendants and Counterclaimants CypherMetrix, Inc., CypherEdge Technologies, Inc., and Third-Party Defendant James B. Linkous within the meaning of Federal Rule of Civil Procedure 15(a), Plaintiffs MSC VENTURE CORPORATION SDN BHD and MSC VENTURE ONE SDN BHD, by their attorneys Schwabe Williamson & Wyatt and Hofheimer Gartlir & Gross, LLP file the following First Amended Complaint

FIRST AMENDED COMPLAINT- 1

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1 adding Evelyn Goei as a defendant and allege as follows:

2 **JURISDICTION AND VENUE**

3 1. Plaintiff MSC Venture Corporation Sdn Bhd ("MSCVC") is a
4 Malaysian corporation with its principal place of business in Kuala Lumpur, Malaysia.

5 2. Plaintiff MSC Venture One Sdn Bhd ("MVI") is a Malaysian
6 corporation with its principal place of business in Kuala Lumpur, Malaysia. Collectively
7 MSCVC and MVI will be referred to herein as "MSC" or "plaintiffs."

8 3. Upon information and belief, defendant Esmond Goei ("Goei") is a
9 citizen of the State of Colorado.

10 4. Upon information and belief, defendant Evelyn Goei ("Goei") is a
11 citizen of the State of Colorado and is the wife of Esmond Goei.

12 5. This Court has subject matter jurisdiction of this matter by reason of
13 the complete diversity of citizenship between the parties pursuant to 28 U.S.C. § 1332. The
14 amount in controversy, exclusive of interest, is in excess of Seventy Five Thousand Dollars
15 (\$75,000).

16 6. Venue exists in this District pursuant to 28 U.S.C. §§ 1391(a) because
17 a substantial part of the events giving rise to the claims alleged herein occurred in this
18 District.

19 **FIRST CLAIM FOR RELIEF**
20 **FOR BREACH OF FIDUCIARY DUTY AGAINST GOEI**

21 7. Plaintiffs repeat and reallege Paragraphs "1" through "6" above as if
22 fully set forth herein.

23 8. Defendant Esmond Goei was the Chief Executive Officer and a
24 director of CypherMetrix, Inc. ("CypherMetrix"), a Delaware corporation with its principal
25 place of business at 13810 SE Eastgate Way, Suite 160, Bellevue, Washington 98005. From
26 on or about August 2003 to August 10, 2006, Goei was Chief Executive Officer of MSCVC

FIRST AMENDED COMPLAINT- 2

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1 and a director of MVI. Goei was terminated as Chief Executive Officer and director of
2 CypherMetrix at the end of November 2006.

3 9. While Chief Executive Officer of MSCVC and a director of MVI,
4 Goei caused them to invest approximately Seventeen Million Three Hundred and Sixty
5 Thousand Dollars (\$17,360,000) in CypherMetrix and/or its subsidiaries.

6 10. By reason of plaintiff's \$17,360,000 investment in CypherMetrix
7 and/or its subsidiaries, plaintiffs owned approximately fifty-nine percent (59%) of
8 CypherMetrix and continue to own over fifty percent.

9 11. CypherMetrix is a holding company owning subsidiaries directly and
10 indirectly, in the United States, China, Singapore and Malaysia. CypherEdge, Inc.
11 ("CypherEdge"), a Delaware corporation with the same principal place of business as
12 CypherMetrix in Bellevue Washington, is the chief operating subsidiary of CypherMetrix in
13 the United States. CypherEdge is a software company whose products include software that
14 analyzes data for telephone companies. The subsidiaries of CypherMetrix doing business in
15 China, Malaysia and Singapore provide software, media and advertising services.

16 12. Goei, when Chief Executive Officer of MSCVC and a director of
17 MVI, represented to plaintiffs that he was pursuing this investment in CypherMetrix to create
18 a Japanese style "keiretsu" in which plaintiffs' portfolio companies would compliment other
19 companies in the group. Goei represented that this coordination of interlocking companies
20 would benefit plaintiffs. He further represented that CypherMetrix, as holding company for
21 this "keiretsu" venture, should focus its business efforts in the United States and China. This
22 alleged strategy was outlined by Goei in an article dated March 16, 2005. Pursuant to this
23 corporate strategy, Goei induced plaintiffs to cause the corporation now known as
24 CypherMetrix to acquire ownership of CypherEdge. Prior to this acquisition, MVI had
25 already invested in the corporation now known as CypherEdge.

26 13. Unbeknownst to plaintiff, Goei had an undisclosed scheme to resign

1 from plaintiff to become Chief Executive Officer of CypherMetrix after plaintiff provided
 2 the financing. In addition, Goei had the undisclosed scheme to divert all United States assets
 3 of CypherMetrix to its Asian subsidiaries where he would wrest ownership and control away
 4 from CypherMetrix and plaintiffs, as the principal owner of CypherMetrix.

5 14. Goei, in breach of the fiduciary duty that he owed to plaintiffs and in
 6 breach of applicable law, engaged in a de facto liquidation of the United States based assets
 7 of CypherMetrix, including CypherEdge. Without the requisite board and shareholder
 8 approval, Goei had been causing the assets of CypherEdge, CypherMetrix's principal United
 9 States subsidiary, to be transferred without fair consideration to Asian subsidiaries and
 10 affiliates of CypherMetrix.

11 15. Many of the known actions of Goei defy rationality and constitute a
 12 willful waste of corporate assets. Upon information and belief, Goei caused CypherMetrix
 13 and CypherEdge to engage in a liquidation of assets in the United States, without any attempt
 14 to maximize the value of the assets. This willful destruction of a business is contrary to any
 15 possible reasonable business judgment. Goei acted intentionally with a purpose other than
 16 advancing the best interests of CypherMetrix and with the intent to violate applicable
 17 positive law.

18 16. This willful destruction of the United States assets of CypherMetrix
 19 and/or CypherEdge demonstrates that there had been a sustained and systematic failure of the
 20 directors of CypherMetrix to exercise oversight over the actions of Goei and an utter failure
 21 by the directors to attempt to assure that a reasonable information and reporting system exists
 22 such that the directors knew what actions Goei was taking.

23 17. The wrongful and destructive acts of Goei included the following:

24 A. On or about March 31, 2005, CypherEdge (then known as NexusEdge)
 25 acquired CypherMetrix, Inc., a software company, for approximately \$2 Million in
 26 NexusEdge stock. In September, 2006 the CypherEdge (NexusEdge) stock was converted to

1 CypherEdge stock as part of Goei's "keiretsu" strategy. By reason of this acquisition,
 2 CypherEdge was able to acquire a contract to implement "CallMine" software developed by
 3 CypherEdge into the data base of one of the largest United States cell phone carriers. This
 4 contract required that the underlying data remain secure within the United States. Upon
 5 information and belief, this contract is the largest contract held by CypherEdge.
 6 Notwithstanding these contractual provisions and notwithstanding applicable privacy laws of
 7 the United States, Goei caused the sensitive client data to be stored in servers located in
 8 China and/or Singapore. Goei further caused the source code for the "CallMine" software to
 9 be brought to China and/or Singapore. There is inadequate security protection for this source
 10 code and data offshore. Upon information and belief, Goei willfully breached the largest
 11 contract of CypherEdge and compromised the security of one of its principal assets as part of
 12 a scheme to remove all CypherMetrix assets to Asia where he can have complete and
 13 unfettered control.

14 B. Goei caused United Sino-Resources Sdn Bhd ("Sino Resources"), a
 15 Singapore company doing business in China, which is an indirect subsidiary of
 16 CypherMetrix, to overbill CypherEdge in an amount in excess of \$500,000. By this
 17 fraudulent scheme, Goei caused assets of CypherEdge to be transferred to Singapore and/or
 18 China. Goei further terminated the licensing of the "CallMine" software in the United States
 19 (despite it being the basis for the largest contract of CypherEdge) and directed the transfer of
 20 this software to China. Upon information and belief, Goei has been operating a separate
 21 business, owned by him, through the facilities and employees of Sino Resources and has
 22 been using the assets of CypherEdge to finance his own, separate, independent business.

23 C. As part of a scheme to transfer funds to Cosmos Discovery Sdn Bhd
 24 ("Cosmos"), an indirect subsidiary of CypherMetrix, in 2005 Goei caused Sino Resources
 25 and Infosation Pte Ltd. ("Infosation"), another indirect subsidiary of CypherMetrix, to pay
 26 Cosmos Two Million Dollars (\$2,000,000) for a two year right of first refusal for business

1 ventures to be entered into by Cosmos. When Cosmos actually did proceed to enter into a
2 business venture later in 2005, Goei caused Sino Resources and Infosation to waive the right
3 of first refusal. Upon information and belief, Sino Resources and Infosation never entered
4 into any transaction with Cosmos and the right of first refusal had no value for them. Upon
5 information and belief, these rights at first refusal were a sham and a means to benefit Goei's
6 own personal business interests in China undertaken through, or in conjunction with,
7 Cosmos.

8 D. As part of his scheme to divert funds to China Goei caused Infosation
9 to loan CypherMetrix One Million Seven Hundred Fifty Thousand Dollars (\$1,750,000) and
10 for CypherMetrix to, in turn, loan this \$1,750,000 to Cosmos. Upon information and belief,
11 the purpose of these loan transactions was to benefit Goei's own personal business interests
12 in China undertaken through, or in conjunction with, Cosmos.

13 E. As part of his campaign to discontinue all United States operations and
14 transfer assets to China and Singapore, Goei either terminated all CypherEdge employees in
15 the United States and/or placed them on "forced vacation." These terminations were in
16 violation of contractual rights of the employees and left CypherEdge unable to conduct
17 business in the United States.

18 F. The termination of employment of CypherEdge's employees by Goei
19 made it impossible for CypherEdge to provide customer support for software that it had sold
20 or licensed. For example, Xerox Corporation executed a three year Master Services
21 Agreement for use of Intelligent Services Network software on July 27, 2006. (Intelligent
22 Services Network software had been developed by RazorLynx, LLC, a company acquired by
23 CypherEdge on or about December 31, 2005). The Master Services Agreement included a
24 substantial investment by Xerox for marketing this software to some of its highest profile
25 clients. CypherEdge obtained the benefit of the Master Services Agreement including
26 revenue from the first two sales by Xerox, but could not fulfill its contractual obligations to

1 Xerox to service the software because it has terminated all its employees. Based on Goei's
2 actions Xerox terminated the Master Services Agreement with CypherEdge on or about
3 October 28, 2006.

4 G. Several months ago, NER Data Products, Inc. ("NER") approached
5 CypherEdge with an offer to purchase a license for Intelligent Services Network software in
6 North America for a 2% license fee including a \$1,000,000 minimum payment. This
7 agreement would have been, except for a few particular companies, non-exclusive. Goei
8 broke off these negotiations and thereafter sought to license the same Intelligent Services
9 Network software in North America and Europe for a minimum payment of only \$112,000
10 as part of a 1% license fee. This subsequent proposed agreement was for full exclusive use
11 of the Intelligent Services Network software for the Americas and Europe, which destroyed
12 the ability to license the software to others.

13 H. Goei refused to allow CypherEdge software to be sold or licensed in
14 the United States, stating that this software will all be transferred to operations in China.

15 I. Upon information and belief, Goei without authorization took personal
16 loans from subsidiaries of CypherMetrix of approximately \$300,000 and sought to alter the
17 books and records to show that no amounts were owed by him. Upon further information
18 and belief, Goei caused CypherMetrix and/or its subsidiaries to accrue salary for him while
19 he still was Chief Executive Officer of plaintiffs, and to pay him this accrued "salary" after
20 he became Chief Executive Officer of CypherMetrix.

21 J. On or about August 18, 2006, Goei obtained a \$191,870 bonus in
22 Singapore dollars (approximately \$122,000 American dollars) from Infosation. Goei further
23 received a salary of \$20,000 a month in Singapore dollars (approximately \$12,700 American
24 dollars) from Infosation from August 18, 2006 through November 2006 (a total of \$68,000 in
25 Singapore dollars). In total, Goei received \$259,870 in Singapore dollars (approximately
26 \$165,000 in American dollars) in compensation from Infosation in 2006, yet provided no

1 services to Infosation. There was no consideration for these payments to Goei. The directors
 2 of CypherMetrix, to the extent that they ratified these payments, could have done so
 3 consistent with the fiduciary duties that they owed to CypherMetrix only upon the
 4 understanding that Goei would provide future services in exchange for this compensation,
 5 which services Goei never provided.

6 K. Goei, prior to his termination, caused CypherMetrix and its
 7 subsidiaries to destroy and remove records. In particular, on or around November 30, 2006,
 8 Goei instructed employees to clean out and remove files (including electronically shared
 9 information) and to remove hard drives and computers. Goei willfully attempted to impede
 10 investigation of his wrongdoing and plaintiffs' ability to recover from him.

11 18. Upon information and belief, it was Goei's scheme to divert all United
 12 States assets of CypherMetrix to China and Singapore where he would gain ownership and
 13 control. Upon information and belief, the directors of CypherMetrix have not been properly
 14 advised of, nor have they authorized or approved, this strategy, which was intended to
 15 benefit Goei personally and to harm plaintiffs.

16 19. Goei, as Chief Executive Officer of MSCVC and a director of MVI,
 17 owed them a fiduciary duty while he served in that capacity. Goei, as both Chief Executive
 18 Officer and director of CypherMetrix owed the fiduciary duty of loyalty, care, good faith and
 19 fair dealing to plaintiffs.

20 20. By reason of Goei's willful scheme to destroy the United States
 21 operations of CypherEdge and his transfer of assets to China and Singapore, as pleaded
 22 above, Goei violated the fiduciary duties of loyalty, care, good faith and fair dealing that he
 23 owed as Chief Executive Officer of MSCVC and that he owed as a director of MVI, and that
 24 he owed as Chief Executive Officer of CypherMetrix, to plaintiffs.

25 21. Goei, in breach of the fiduciary duties that he owed to plaintiffs has
 26 pursued a scheme to enrich himself at plaintiffs' expense. Upon information and belief, at

1 plaintiffs' expense Goei was attempting to create a software media and advertising
2 conglomerate "keiretsu" in China that would be owned and controlled by him.

3 22. By reason of the foregoing, plaintiffs have been damaged in the
4 amount of Seventeen Million Three Hundred Sixty Thousand Dollars (\$17,360,000) together
5 with interest accrued thereupon.

6 **SECOND CLAIM FOR RELIEF**
7 **FOR COMMON LAW FRAUD AGAINST GOEI**

8 23. Plaintiffs repeat and reallege Paragraphs "1" through "22" above as if
9 fully set forth herein.

10 24. Goei represented to plaintiffs, as pleaded above, that he was creating a
11 "keiretsu" through CypherMetrix for the benefit of plaintiffs. Goei further represented that
12 the United States would be one of the two markets that he would pursue.

13 25. Contrary to Goei's representations, he was pursuing a scheme by
14 which he would gain ownership and control of the assets of CypherMetrix, and have these
15 United States assets transferred to Asian entities under his ownership and/or control. Goei
16 was pursuing a scheme to use plaintiffs' funds to finance a conglomerate for his personal
17 benefit.

18 26. Goei made his misrepresentations to plaintiffs with knowledge that
19 they were false when made.

20 27. Plaintiffs relied upon Goei's misrepresentations and based thereupon,
21 agreed to invest the Seventeen Million Three Hundred Sixty Thousand Dollars in
22 CypherMetrix.

23 28. By reason of Goei's misrepresentations, plaintiff has been damaged.

24 ///

25 ///

**THIRD CLAIM FOR RELIEF
FOR FRAUDULENT NON-DISCLOSURE AGAINST GOEI**

29. Plaintiffs repeat and reallege Paragraphs "1" through "28" above as if fully set forth herein.

30. As a fiduciary of plaintiffs, Goei owed them a duty of full disclosure.

31. Goei had and failed to disclose to plaintiffs his scheme to use plaintiffs' investments to fund a conglomerate of companies owned principally by Goei in China. Goei never disclosed his scheme to shut down all United States operations and divert these assets to China and Singapore.

32. Had Goei disclosed his scheme to create a Chinese conglomerate owned and controlled principally by him and to eviscerate the operations of CypherMetrix in the United States to benefit operations in China and Singapore owned and/or controlled by him, plaintiffs would not have invested in CypherMetrix.

33. By reason of the fraudulent non-disclosures of Goei, plaintiffs have been damaged in the amount of Seventeen Million Three Hundred Sixty Thousand Dollars.

**FOURTH CLAIM FOR RELIEF
FOR BREACH OF FIDUCIARY DUTY AGAINST GOEI**

34. Plaintiffs repeat and reallege Paragraphs "1" through "33" above as if fully set forth herein.

35. From on or about August 18, 2003 to August 17, 2006, Goei was Chief Executive Officer of MSCVC and a director of MVI. Plaintiffs were, and continue to be, venture capital entities. As Chief Executive Officer of MSCVC and as a director of MVI, Goei owed plaintiffs a duty of loyalty, care, good faith and fair dealing.

36. As venture capitalists, plaintiffs invest millions of dollars in start-up corporations. When plaintiffs invest in a start-up corporation, they insist upon having representation on its board of directors. Upon information and belief, this demand for board

1 representation is a policy common to virtually all venture capitalists. Having a director on
 2 the board allows the venture capitalist full access to corporate information and the ability to
 3 shape and influence corporate decisions.

4 37. One of the corporations for which plaintiffs provided venture capital
 5 financing is Farallon Medical, Inc. ("Farallon"). Plaintiffs invested Two Million Eight
 6 Hundred Twenty Nine Thousand and Eighty Eight Dollars (\$2,829,088) in Farallon. On a
 7 converted basis, plaintiffs own approximately Twenty Five (25%) percent of Farallon. Upon
 8 information and belief, plaintiffs (with their interests aggregated) constitute the largest
 9 shareholder of Farallon.

10 38. Pursuant to a Voting Agreement dated June 7, 2005 by and among,
 11 inter alia, plaintiffs and Farallon, plaintiffs were entitled to elect at least one director of
 12 Farallon's board of directors (and depending upon other conditions they could be entitled to
 13 elect two directors).

14 39. The Amended and Restated Voting Agreement dated June 2, 2006,
 15 executed by all parties to this lawsuit, purported to supersede and replace the original Voting
 16 Agreement. In relevant part the Amended and Restated Voting Agreement provides:

17 2. Election of Boards of Directors.

18 (a) Voting. During the term of this Agreement, each
 19 Voting Party agrees to vote all Shares in such manner as
 20 may be necessary to elect (and maintain in office) as
 21 members of the Company's Board of Directors the
 following individuals:

- 22 (i) One (1) Preferred Designee (as defined
below) as a Preferred Director;
- 23 (ii) One (1) Common Designee (as defined
24 below) as the Common Director; and
- 25 (iii) Two (2) Mutual Designees (as defined
26 below) as the Mutual Directors.

(b) Designation of Directors. The designees to the Company's Board of Directors described above (each a "Designee") shall be designated as follows:

- (i) The "Preferred Designee" shall be the Chairman of the Board of Directors and shall be designated by MSC Ventures.
- (ii) The "Common Designee" shall be the Company's President and Chief Executive Officer.
- (iii) The "Mutual Designees" shall be designated by the Preferred Designee and the Common Designee.

(c) Current Designees. For the purpose of this Agreement, the current directors of the Company shall be deemed to be the following Designees: (i) Esmond Goei shall be the Preferred Designee; (ii) James T. McKinley shall be the Common Designee, and (iii) Richard Char shall be a Mutual Designee.

(d) Changes in Designees. From time to time during the term of this Agreement, Voting Parties who hold sufficient Shares to select a Designee pursuant to this Agreement (in the event that Voting Parties have the right to designate a Designee) or individuals who have a right to designate a Designee may, in their sole discretion:

- (i) notify the Company in writing of an intention to remove from the Company's Board of Directors any incumbent Designee who occupies a Board seat for which such Voting Parties are entitled to designate the Designee or for which such individual is entitled to designate the Designee, as the case may be; or
- (ii) notify the Company in writing of an

intention to select a new Designee for election to a Board seat for which such Voting Parties are entitled to designate the Designee or for which such individual is entitled to designate the Designee (whether to replace a prior Designee or to fill a vacancy in such Board seat), as the case may be;

In the event of such an initiation of a removal or selection of a Designee under this section, the Company shall take such reasonable actions as are necessary to facilitate such removals or elections, including, without limitation, soliciting the votes of the appropriate stockholders, and the Voting Parties shall vote their Shares to cause: (a) the removal from the Company's Board of Directors of the Designee or Designees so designated for removal; and (b) the election to the Company's Board of Directors of any new Designee or Designees so designated.

Notwithstanding the above, MSC Ventures may not remove Esmond Goei as the Preferred Designee without Esmond Goei's consent.

(emphasis added).

40. Defendant Goei purported to execute the Amended and Restated Voting Agreement on behalf of plaintiffs.

41. Goei did not inform plaintiffs of the restriction, added for the first time in the Amended and Restated Voting Agreement, that plaintiffs could not remove him as the Preferred Designee without his consent. Plaintiffs learned of this provision only after the Amended and Restated Voting Agreement had been executed. Goei executed the Amended and Restated Voting Agreement containing this provision giving Goei veto power over his removal without the knowledge and consent of the directors of plaintiffs. Goei had no authority to execute the Amended and Restated Voting Agreement containing this limitation on his removal.

1 42. By executing the Amended and Restated Voting Agreement providing
2 that he could not be removed as the Preferred Designee without his consent, Goei violated
3 the fiduciary duties of loyalty, care, good faith and fair dealing that he owed to plaintiffs.
4 Goei unlawfully misused his position as Chief Executive Officer of MSCVC and as a
5 director of MVI to further his own personal interests at the expense of plaintiffs' interests.

6 43. Goei had a three year employment agreement to serve as Chief
7 Executive Officer of MSCVC which terminated on August 17, 2006. Upon information and
8 belief, when Goei purported to execute the Amended and Restated Voting Agreement on or
9 about June 6, 2006, he knew that a little over two months later he would no longer have a
10 position with plaintiffs. Goei submitted a resignation letter on August 18, 2006, a day after
11 his employment agreement had expired. Upon information and belief, Goei intentionally
12 negotiated for and obtained his alleged right to remain as Preferred Designee for so long as
13 he chose as an illicit means to provide him with leverage in negotiating with plaintiffs.

14 44. By reason of Goei's actions, plaintiffs had no board representation on
15 Farallon's board between August 17, 2006 and February 6, 2007. They did not have insider
16 access to information nor could they participate in the development and implementation of
17 corporate policy and decision making. During this period, Farallon agreed to pay
18 compensation and stock options to Goei and one of his associates which plaintiffs would
19 have opposed. The stock options granted to Goei and his associate were at a below market
20 stock price, which, upon information and belief, was contrary to Farallon's stock option plan.
21 Goei, while serving as a fiduciary of plaintiffs, intentionally thwarted and interfered with
22 corporate policies of plaintiffs, and sought to further his own personal financial interests.

23 45. Goei has taken no action to expressly and unequivocally resign as the
24 Chairman of the Board of Farallon. By reason of Goei having been the Preferred Designee,
25 he remains today as the Chairman of the Board of Farallon.

26 46. On or about February 6, 2007 Farallon agreed to provide a seat upon

1 its board of directors to MSCVC but not as Chairman of the Board, to which position
2 MSCVC was entitled to appoint its representative.

3 47. By reason of having no board representation from August 17, 2006 to
4 February 6, 2007 the value of plaintiffs' investment in Farallon was damaged.

5 48. By reason of Goei serving as Chairman of the Board of Farallon
6 instead of a designee of MSCVC, the value of plaintiffs' investment in Farallon has been
7 damaged.

8 49. By reason of Goei's breach of fiduciary duty as pleaded above,
9 plaintiffs have been damaged in an amount to be determined, but not less than One Million
10 (\$1,000,000) Dollars.

11
12 **FIFTH CLAIM FOR RELIEF**
13 **FOR BREACH OF CONTRACT AND**
14 **BREACH OF FIDUCIARY DUTY AGAINST BOTH DEFENDANTS**

15 50. Plaintiffs repeat and reallege Paragraphs "1" through "49" above as if
16 fully set forth herein.

17 51. On August 18, 2003, Goei entered into a written employment
18 agreement with MSCVC (the "Employment Agreement").

19 52. The Employment Agreement provided in relevant part that:

20 "The Employee [i.e. Goei] is also prohibited from
21 acquiring any shares or interests in any of the company's
22 clients without the prior approval in writing from the
23 Chief Executive Officer of the Multimedia Development
24 Corporation."

25 53. Secretly and unbeknownst to plaintiffs, on or about November 11,
26 2004, the board of directors of Farallon authorized the issuance of 393,333 warrants to Goei
individually. Upon information and belief the warrants were issued on December 21, 2004,
had an exercise price of five (\$.05) cents a share and expire on December 20, 2014.

1 54. Goei never received any written permission from plaintiffs' directors
2 and/or from the Chief Executive Officer of the Multimedia Development Corporation to
3 acquire these warrants from Farallon.

4 55. At the time that Goei obtained these warrants, he was working full
5 time for MSCVC and its subsidiaries and affiliates, and had no right to additional
6 compensation from an entity in which plaintiffs invested.

7 56. The 393,333 warrants were earned by Goei by reason of his duties as
8 an officer of plaintiffs, and should have been issued in the name of, and delivered to,
9 plaintiffs.

10 57. Upon information and belief, Goei never advised or informed Farallon
11 that he could not lawfully accept the 393,333 warrants.

12 58. Upon information and belief, Farallon offered to provide the warrants,
13 and did provide the warrants, to Goei to influence his actions as the Chief Executive Officer
14 of MSCVC and as a director of MVI.

15 59. On or about June 3, 2006 Goei caused the 393,333 warrants to be
16 transferred to his wife Evelyn Goei.

17 60. Upon information and belief, Goei transferred the 393,333 warrants to
18 his wife in an attempt to defeat the claims of plaintiffs.

19 61. Upon information and belief, Evelyn Goei conspired with her husband
20 Goei to secrete the 393,333 warrants unlawfully obtained by Goei so as to defeat the claims
21 of plaintiffs.

22 62. Goei breached his Employment Agreement and the fiduciary duty he
23 owed to plaintiffs by secretly obtaining the 393,333 warrants for himself. By accepting these
24 warrants from Goei, Evelyn Goei is liable, jointly and severally with him, for his breach of
25 the Employment Agreement and his breach of fiduciary duty. All such compensation
26 unlawfully paid to Goei and transferred to Evelyn Goei is the property of plaintiffs.

63. Upon information and belief, the warrants have a value of in excess of One Million (\$1,000,000) Dollars.

64. By reason of the foregoing, plaintiffs have been damaged by defendants in an amount to be determined, but in excess of One Million (\$1,000,000) Dollars.

**SIXTH CLAIM FOR RELIEF
FOR CONVERSION AGAINST DEFENDANTS**

65. Plaintiffs repeat and reallege Paragraphs "1" through "64" above as if fully set forth herein.

66. The 393,333 warrants were unlawfully issued in the name of Goei, were unlawfully transferred to Evelyn Goei and are the rightful property of plaintiffs.

67. Goei unlawfully converted the 393,333 warrants, which are equitably owned by plaintiffs, into property owned of record by himself, and thereafter transferred record ownership of this property of plaintiffs to his wife, Evelyn Goei.

68. By reason of this conversion of plaintiffs' warrants by defendants, plaintiffs are entitled to an order of this Court compelling and ordering defendants to cause the 393,333 warrants issued in Goei's name and transferred by him to Evelyn Goei to be transferred to plaintiffs.

**SEVENTH CLAIM FOR RELIEF
FOR AN ACCOUNTING AGAINST DEFENDANTS**

69. Plaintiffs repeat and reallege Paragraphs "1" through "68" above as if fully set forth herein.

70. Plaintiffs, as venture capitalists, have invested in other entities besides CypherMetrix and CypherEdge, and their subsidiaries and affiliates.

71. One of the other entities in which plaintiffs invested was NexusEdge Technologies Sdn Bhd ("NexusEdge Malaysia").

1 72. On April 19, 2005, NexusEdge Malaysia accused Goei of demanding
2 that it set aside shares of NexusEdge Malaysia for himself and other employees of MSCVC.
3 NexusEdge Malaysia accused Goei of stating that the compensation that he and the
4 employees received from MSCVC was not sufficient, and that they were entitled to be
5 rewarded fairly.

6 73. Goei's demand for stock from NexusEdge Malaysia is consistent with
7 his receipt of the warrants from Farallon.

8 74. Upon information and belief, while serving as Chief Executive Officer
9 of MSCVC and as a director of MVI, Goei may have engaged in a pattern and practice of
10 demanding stock options, warrants and other compensation for himself and other employees
11 of plaintiffs from entities in which plaintiffs planned to invest or had invested, in
12 contravention of his employment agreement and the fiduciary duty that he owed to plaintiffs.

13 75. Plaintiffs do not know the amount or extent of stock, options, warrants
14 and other compensation that Goei obtained for himself and other employees of plaintiffs
15 from entities in which plaintiffs planned to invest or had invested, and the extent to which he
16 assigned or transferred such unlawfully obtained assets to his wife, Evelyn Goei.

17 76. By reason of the foregoing, plaintiffs are entitled to an accounting
18 from Goei and Evelyn Goei of all stock, warrants, options and other compensation that Goei
19 received on behalf of himself (including that held in the name of his wife and other family
20 members) and other employees of plaintiffs from companies in which plaintiffs planned to
21 invest or had invested and which Goei received while, or by reason of, his serving as Chief
22 Executive Officer of MSCVC and a director of MVI. Based upon the results of this
23 accounting, any such stock, warrants, options and other compensation should be transferred
24 to plaintiffs by defendants and/or Goei should be liable in damages for all such assets
25 obtained by him for himself and other employees of plaintiffs and/or Evelyn Goei should be
26 liable in damages for all such assets obtained by her, jointly and severally with Goei.

PRAYER FOR RELIEF

WHEREFORE, plaintiffs MSC Venture Corporation Sdn Bhd and MSC Venture One Sdn Bhd demand judgment against the defendants as follows:

i. Upon the First, Second and Third Claims for Relief against defendant Esmond Goei damages of Seventeen Million Three Hundred Sixty Thousand Dollars (\$17,360,000), together with interest accrued thereupon;

ii. On the Fourth Claim For Relief, that plaintiffs recover damages against defendant Esmond Goei in the amount of One Million (\$1,000,000) Dollars;

iii. On the Fifth Claim for Relief, that plaintiffs recover damages against defendants Esmond Goei and Evelyn Goei, jointly and severally, in the amount of One Million (\$1,000,000) Dollars;

iv. On the Sixth Claim for Relief, that this Court order and compel defendants Esmond Goei and Evelyn Goei to cause the 393,333 warrants issued in Goei's name and transferred to Evelyn Goei to be transferred to plaintiffs;

v. On the Seventh Claim for Relief, that this Court order an accounting from Goei and Evelyn Goei of all stock warrants, options and other compensation that Goei received on behalf of himself (including that held in the name of his wife and other family members) and other employees of plaintiffs from companies in which plaintiffs planned to invest or had invested, and which Goei acquired while, or by reason of, his serving as Chief Executive Officer of MSCVC and a director of MVI and based upon the results of this accounting, any such stock, warrants, options and other compensation should be transferred to plaintiffs by defendants and/or Goei should be liable in damages for all such assets obtained by him for himself and other employees of plaintiffs and/or Evelyn Goei should be liable in damages for all such assets obtained by her, jointly and severally with Goei;

///

1 vi. The costs and expenses of this action, including reasonable
2 attorney's fees; and,

3 vii. Such other and further relief as this Court deems necessary and
4 just in the circumstances.

5 Dated this 25th day of July, 2007.

6 SCHWABE WILLIAMSON & WYATT

7
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19 *MSC Venture One SDN BHD and*
20 *Third-Party Defendants*
21 *CYPHERMETRIX, INC., and CYPHEREDGE*
22 *TECHNOLOGIES, INC.*

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FIRST AMENDED COMPLAINT- 21

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CERTIFICATE OF SERVICE

I hereby certify that on the 25th day of July, 2007, I caused to be served the foregoing
FIRST AMENDED COMPLAINT and that all parties required to be served will be
electronically notified by the Clerk of the Court. The following will be served:

John H. Chun
Lawrence C. Locker
Denise L. Ashbaugh
Summit Law Group, P.L.L.C.
315 Fifth Avenue South, Suite 1000
Seattle, WA 98104-2682

/s/ Stephanie P. Berntsen

CERTIFICATE OF SERVICE - 1

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